

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**BRICKLAYERS AND ALLIED
CRAFTSMEN LOCAL UNION NO. 18
OF THE SOUTHERN OHIO
ADMINISTRATIVE DISTRICT
COUNCIL, et al.,**

Plaintiffs,

-vs-

WAYNE MASONRY, INC., et al.,

Defendants

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CASE NO. 1: 05CV0484

**JUDGE SUSAN J. DLOTT
MAGISTRATE JUDGE HOGAN**

**CONSENT JUDGMENT ENTRY
FOR PARTIAL DISMISSAL
WITHOUT PREJUDICE**

All Plaintiffs and the following Defendants: Hamilton City School District Board of Education, Stephen Gross & Sons, Inc., Ohio Farmers Insurance Co. and Westfield Insurance Company ("Moving Defendants") having reached agreement concerning the Motion to Dismiss currently pending before the Court,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Plaintiffs' Complaint against the Moving Defendants ('The Federal Court Litigation') is hereby dismissed without prejudice.
2. Within sixty (60) days of the date of said dismissal, Plaintiffs represent to the Court that they intend to re-file their Complaint against Moving

Defendants in the Butler County, Ohio Common Pleas Court restating the same claims as stated in the Federal Court Litigation.

3. If Plaintiffs' Complaint is re-filed in the Butler County Ohio Common Pleas Court within said sixty (60) day period, then the re-stated Federal Court Litigation claims contained therein shall be considered as relating back in time to the filing date of Plaintiffs' Complaint in the Federal Court Litigation of July 18, 2005. Plaintiffs' re-filed Complaint shall be deemed as timely filed pursuant to Ohio Revised Code §1311.311.
4. The claims against the one remaining Defendant, Wayne Masonry, Inc., shall remain pending but shall be stayed until further Order of this Court pursuant to the Notice of Bankruptcy filed with the Court.

IT IS SO ORDERED.


JUDGE SUSAN J. PLOTT

APPROVED BY:

s/ William H. Webster
William H. Webster
Attorney for Plaintiffs

s/ C. Bronston McCord, III
C. Bronston McCord, III
Attorneys for Defendant
Hamilton School District

s/ Daniel E. Izenon
Daniel E. Izenon
Attorney for Stephen Gross and Sons, Inc.,
Westfield Insurance Company
Ohio Farmers Insurance Co.